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INFO OCT-01 ISO-00 /005 R

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DRAFTED BY:(ARA/LA:RJSURBER

APPROVED BY: ARA/LA:RJSURBER

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TO AMEMBASSY QUITO PRIORITY

C O N F I D E N T I A L STATE 048080

FOR ASSISTANT SECRETARY KUBISCH

FOLLOWING SENT ACTION SECSTATE, INFO RIO DE JANEIRO, SAO
PAULO, MARCH 9, FRON BRASILIA RPTD TO YOU:

QUOTE C O N F I D E N T I A L BRASILIA 1632

E.O. 11652: GDS

TAGS: ETRD BR

SUBJ: BRAZILIAN FOOTWEAR--COUNTERVAILING DUTY COMPLAINT

RESS: STATE 46931 AND 33710; BRASILIA 721 AND 1455

1. IN CHANCE ENCOUNTER WITH MBOFF, BATISTA (HEAD ECON
DEPT, FONOFF) MADE FOLLOWING COMMENTS REFLECTING INITIAL
GOB REACTIONS AND CONCERN ABOUT US COUNTERVAILING DUTY
ACTION ON SHOES. BATISTA MAINTAINED THAT GOB, AT LEAST
FONMIN, HAD NOT FULLY UNDERSTOOD THAT US REQUEST WAS
FOR TECHNICAL FACT FINDING DISCUSSIONS. IT WAS GOB IM-
PRESSION THAT ENTIRE EXPORT INCENTIVE PROGRAM WAS TO BE
CRITICALLY EXAMINED BY US. IT WAS ONLY AFTER RECENT DIS-
CUSSIONS WITH ECON COUNSELOR (BRASILIA 1455) THAT HE FULLY
UNDERSTOOD PROBLEM. HE REQUESTED WRITTEN MEMORANDUM TO
CONFIRM US POSITION AND WAS PREPARED TO SET WHEELS IN
MOTION TO TRY TO REVERSE PREVIOUS DECISION. UNFORTUNATELY,
FORMAL PROCEDURE ON COUNTERVAILING DUTIES INITIATED
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BEFORE PROCESS COULD BE COMPLETED.

2. IN UNDERLINING FONMINISTER'S PROFOUND CONCERN ABOUT COUNTERVAILING DUTY ACTION, BATISTA STRESSED THAT WHAT REALLY HURT GIBSON WAS THE LACK OF "ANY NOTICE WHATSOEVER; EVEN 48 HOURS WOULD HAVE BEEN HELPFUL." SUCH ADVANCE NOTICE WOULD HAVE BEEN PARTICULARLY APPROPRIATE IN VIEW OF THE EXCHANGES THAT HAVE PREVIOUSLY OCCURRED ON THIS MATTER, PARTICULARLY THE ONE IN MEXICO CITY.

3. ON THE SUBSTANCE OF THE ISSUE, BATISTA EXPRESSED HIS BELIEF THAT GATT PRACTICES FULLY SUPPORT GOB POLICIES. HE WAS CRITICAL OF THE COUNTERVAILING DUTY LEGISLATION BECAUSE IT DOES NOT REQUIRE PROOF OF INJURY, A BASIC TENET OF GATT DOCTRINE. HE ALSO NOTED THAT THE GATT IS VERY LIBERAL IN PERMITTING EXPORT SUBSIDY PROGRAMS BY DEVELOPING COUNTRIES. HE OBSERVED THAT THE USG HAS NOT IMPOSED COUNTERVAILING DUTIES ON THE MANY PRODUCTS EXPORTED BY JAPAN AND OTHER COUNTRIES THAT HAVE SIMILAR INCENTIVE OR SUBSIDY PROGRAMS.

4. IN RESPONSE TO A QUESTION ON NEXT STEPS, BATISTA MADE FOLLOWING POINTS: (A) IF IT IS TECHNICALLY FEASIBLE, GOB WOULD PREFER NOT TO DO ANYTHING FOR THE NEXT TEN DAYS, UNTIL THE NEW MINISTERS ARE AT WORK. (B) ANY PUBLIC STATEMENT FROM THE GOB WOULD PROBABLY COME ONLY AFTER US PRESS TREATMENT AND OFFICIAL COMMENTARY HAD BEEN RECEIVED AND EXAMINED. (C) HE DID NOT KNOW WHETHER THE GOB WOULD "COOPERATE" IN THE INVESTIGATION OR NOT; SUCH A MAJOR POLICY DECISION HAD TO BE MADE BY NEXT ADMINISTRATION. BATISTA WILL BE SEEING FONMINISTER DESIGNATE SILVEIRA IN RIO TODAY, MARCH 8, AND WILL ALSO TRY TO DISCUSS ISSUE WITH FINMINISTER DESIGNATE SIMONSEN. FONMINISTER BARBOZA HAD INDICATED THAT HE WOULD TRY TO REACH FINMINISTER DELFIM NETTO ON THE TELEPHONE AND DISCUSS THE MATTER WITH HIM.

5. COMMENT: EMBOFF VIGOROUSLY DEFENDED EMBASSY POSITION IN THE DISCUSSION, PARTICULARLY NOTING THAT THE PROBLEM HAD BEEN UNDER DISCUSSION FOR AN EXTENDED PERIOD OF TIME. BATISTA'S STATEMENT THAT GOB DID NOT "UNDERSTAND" US POSITION
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APPEARS TO BE SELF SERVING AND MAY BE A DEFENSE OF "HARD LINE" APPROACH ADOPTED BY FONOFF. POSITION TAKEN IN VILAR DE QUEIROZ'S RESPONSE TO HENNESSY LETTER WAS CLEARED THROUGH THE BRAZILIAN GOVT, INCLUDING FONOFF. IN INTER-GOVERNMENTAL DISCUSSIONS, BATISTA AND THE FOREIGN OFFICE HAVE BEEN ADVOCATING A STRONG POLICY LINE, AND HAVE CITED THE GATT TO SUPPORT THEIR ARGUMENTS. THEIR DELIVERY OF A DIPLOMATIC NOTE (STATE 33710), AFTER WE MADE ANOTHER

REQUEST FOR DISCUSSIONS, IS EVIDENCE OF THEIR STRONG FEELING. IT IS POSSIBLE, HOWEVER, THAT FONOFF DID NOT REALIZE UNTIL RECENTLY THAT UNLESS THESE TECHNICAL DISCUSSIONS WERE INSTITUTED, FORMAL COMPLAINT PROCEDURE WOULD BE INITIATED. (BRASILIA 1455)

6. PARTICULARLY IN VIEW OF BATISTA'S COMMENTS ON PRESS REACTIONS (SEE PARA 4 ABOVE) EMBASSY HOPES THAT PRESS LINE WILL BE KEPT LOW KEY AND THAT PRESS STATEMENTS WILL BE FACTUAL AND WILL STRESS INVESTIGATIVE NATURE OF INQUIRY. WE APPRECIATE THE REVISION OF PRESS RELEASE ON COUNTERVAILING DUTY NOTICE (STATE 46931). WE ALSO HOPE THAT THE INVESTIGATING COMPLAINT WILL BE HANDLED AS EXPEDITIOUSLY AS POSSIBLE.

7. WE BELIEVE IT LIKELY THAT GOB WILL "COOPERATE" WITH COUNTERVAILING DUTY HEARING BY PRESENTING DEFENSE OF ITS POSITION. IT IS HIGHLY PROBABLE THAT BRAZIL WILL ALSO SEEK SUPPORT IN THE GATT AND THE MULTILATERAL TRADE NEGOTIATING FORUMS AS WELL AS IN BILATERAL DISCUSSIONS WITH OTHER LATIN AMERICAN COUNTRIES. COUNTERVAILING DUTY ACTION BY US SO SOON AFTER MEXICO CITY MEETING MAY RESULT IN MORE THAN USUAL CRITICAL RESPONSE BY LATINSXM CRIMMINS UNQUOTE. KISSINGER

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: FOOTWEAR, IMPORTS, SHOES, SUBSIDIES, TRADE AGREEMENTS
Control Number: n/a
Copy: SINGLE
Draft Date: 11 MAR 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: golinofr
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974STATE048080
Document Source: CORE
Document Unique ID: 00
Drafter: (ARA/LA:RJSURBER
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: n/a
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19740353/aaaabxim.tel
Line Count: 139
Locator: TEXT ON-LINE
Office: ORIGIN ARA
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: golinofr
Review Comment: n/a
Review Content Flags:
Review Date: 09 SEP 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <09 SEP 2002 by boyleja>; APPROVED <06 JAN 2003 by golinofr>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: BRAZILIAN FOOTWEAR--COUNTERVAILING DUTY COMPLAINT RESS: STATE 46931 AND 33710; BRASILIA 721 AND 1455
TAGS: ETRD, BR
To: QUITO
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005